

## **REMARKS**

### **Allowable Subject Matter**

Applicants appreciate the Examiner's indication that claims 66-70 are allowed.

### **Double Patenting Rejection**

Claim 71 is rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claim 5 of US Patent 6,797,001. The Examiner contends that although the conflicting claims are not identical, they are not patentably distinct from each other because "the subject matter of claim 71 is considered to be encompassed by claim 5 of the '001 patent. The only material difference between the claims is that claim 5 of the '001 patent also includes an anchor at each end of the device." (9/18/07 Office Action, page 2).

Claim 5 of the '001 patent recites a device that effects the condition of a mitral valve annulus of a heart comprising an anchor at each end of the device that fix the device in the coronary sinus.

Claim 71 is not an obvious variation of claim 5 from the '001 patent because claim 5 requires that the device have an anchor at each end of the device which fix the device to be fixed in the coronary sinus. Even the Examiner has described it as a "material" difference. The device in claim 5 has a very specific structure in that anchors must exist at both ends to fix the device in place. Claim 71 does not have this limitation and it is not clear why it would have been obvious to remove the anchors at each end of the device, which fix the device in the coronary sinus, to arrive at the device as claimed in claim 71. Applicants respectfully request that that rejection to claim 71 be withdrawn.

### **Claim Objections**

Claims 72-76 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. Applicants believe claim 71 is patentable, and therefore that claims 72-76 are patentable in their current form.

**Information Disclosure Statement**

An Information Disclosure Statement accompanies this response.

**CONCLUSION**

Applicants request reconsideration and allowance of all claims pending in this application. If a telephone conference would expedite prosecution of this application, the Examiner is invited to contact the undersigned.

Respectfully submitted,



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By:

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